UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

-against-

----X JAMES ROBERT BROSNAN AS EXECUTOR OF THE ESTATE OF STEPHEN M. BROSNAN and KEVIN C. HUSTON,

CIVIL ACTION NO: 1:19-cv-00860 (LEK/CFH)

Plaintiffs,

STIPULATION OF SETTLEMENT AND PARTIAL DISMISSAL

MAUREEN E. ROBERTS and KATHERINE M. ROBERTS,

Defendants.

WHEREAS, this action was commenced by Summons and Complaint on July 17, 2019, for alleged personal injuries sustained by plaintiffs on or about October 23, 2017.

WHEREAS, Plaintiff Stephen Michael Brosnan died July 14, 2020;

WHEREAS, JAMES ROBERT BROSNAN, his brother, petitioned the Court to be appointed Executor of his Estate, through a petition filed with the Surrogates Court, State of North Carolina, County of Buncombe, Index Number: 2020E 001256;

WHEREAS, JAMES ROBERT BROSNAN was appointed Executor of the Estate on August 14, 2020 (Unlimited Letters Testamentary attached hereto as "Exhibit A");

WHEREAS, James Robert Brosnan, as Executor of the Estate of Stephen M. Brosnan, was substituted as plaintiff on behalf of Steven Michael Brosnan by Stipulation and Order dated December 4, 2020 (Doc. 22);

WHEREAS, at a settlement conference held on February 10, 2021, the parties agreed to a settlement of that portion of the personal injury action associated with the claim of JAMES ROBERT BROSNAN AS EXECUTOR OF THE ESTATE OF STEPHEN M. BROSNAN for the sum of \$85,000.00.

NOW THEREFORE,

IT IS HEREBY STIPULATED AND AGREED, by and between undersigned counsel that the claim of Plaintiff, JAMES ROBERT BROSNAN AS EXECUTOR OF THE ESTATE OF STEPHEN M. BROSNAN will be partially dismissed pursuant to Rule 41 (a) of the Federal Rules of Civil Procedure, with prejudice, upon the following terms.

- 1. The execution by JAMES ROBERT BROSNAN AS EXECUTOR OF THE ESTATE OF STEPHEN M. BROSNAN of a General Release for Bodily Injury, relieving defendants from any and all claims, liabilities and causes of action related to or arising out of any and all of the events set forth in the complaint in the above-captioned action.
- 2. In return for the execution of the General Release for Bodily Injury, Defendants will provide a check payable to Plaintiff's attorney jointly with the Estate of Michael Brosnan in the sum of \$85,000.00.
- This conditional stipulation and partial dismissal will become a final partial dismissal within 30 days of execution by the Court, unless a party submits an application for further extension to the Court.

4. Upon this conditional stipulation becoming final, pursuant to Rule 15 of the Federal rules of Civil Procedure, the parties hereby provide written consent, or seek the Court's leave, to amend the caption in this matter to reflect the removal of the estate plaintiff as follows:

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

KEVIN C. HUSTON,

CIVIL ACTION NO: 1:19-cv-00860 (LEK/CFH)

Plaintiffs,

-against-

MAUREEN E. ROBERTS and KATHERINE M. ROBERTS,

Defendants.

Dated: Bedford Hills, New York February 23, 2021

LAW OFFICE OF GARY A. CUSANO PC

Attorney for Plaintiff

JAMES ROBERT BROSNAN AS EXECUTOR OF THE ESTATE OF STEPHEN M.

BROSNAN

483 Cherry Street

Bedford Hills, New York 10507

(914) 902-5203

SMITH DOMINELLI & GUETTI LLC

Attorneys for Defendants MAUREEN E. ROBERTS and KATHERINE M. ROBERTS 449 New Karner Road Albany, New York 12205 (518) 250-4888

THE STIPULATION AND PARTIAL DISMISSAL IS SO ORDERED:

Dated: March 09, 2021

Lawrence E. Kahn

Senior U.S. District Judge

## Case 1:19-cv-00860-LEK-CFH Document 27 Filed 03/09/21 Page 4 of 4

STATE OF NORTH CAROLINA	File No.	
STATE OF HORITIC STATE STATE	2020 E 0012: In The General Court Of Justice	
BUNCOMBE County	Superior Court Division  Before the Clerk	
IN THE MATTER OF THE ESTATE OF:		
Neme STEPHEN MICHAEL BROSNAN	LETTERS	
	TESTAMENTARY	
	G.S. 28A-6-1; 28A-6-3; 28A-11-1; 36C-2-209	
The Court in the exercise of its jurisdiction of the probate of the fiduciary, has adjudged legally sufficient the qualification issued in the above estate.	of wills and the administration of estates, and upon application of on of the fiduciary named below and orders that Letters be	
The fiduciary is fully authorized by the laws of North Carol estate, and these Letters are issued to attest to that autho	ina to receive and administer all of the assets belonging to the rity and to certify that it is now in full force and effect.	
	9	
the Control of the Control of the Superior Court		
Witness my hand and the Seal of the Superior Court.		
arne And Address Of Fiduciary 1	Date Of Qualification	
IAMES ROBERT BROSNAN	Date Of Qualification 08/14/2020	
IAMES ROBERT BROSNAN		
IAMES ROBERT BROSNAN 2402 ALABAMA AVENUE	08/14/2020	
IAMES ROBERT BROSNAN 2402 ALABAMA AVENUE  DURHAM NC 27705 tile Of Fiduciary 1	08/14/2020 Clark Of Superior Court STEVEN D COGBURN	
AMES ROBERT BROSNAN 2402 ALABAMA AVENUE  DURHAM NC 27705  ### GOT Fiduciary 1  EXECUTOR	08/14/2020 Clerk Of Superior Court	
AMES ROBERT BROSNAN 2402 ALABAMA AVENUE  DURHAM NC 27705  Title Of Fiduciary 1  EXECUTOR	08/14/2020 Cterk Of Superior Court STEVEN D COGBURN EX OFFICIO JUDGE OF PROBATE	
DURHAM NC 27705  EXECUTOR	08/14/2020  Clerk Of Superior Court  STEVEN D COGBURN  EX OFFICIO JUDGE OF PROBATE  Date Of Issuance	
Title Of Fiduciary 1	08/14/2020  Clerk Of Superior Court  STEVEN D COGBURN  EX OFFICIO JUDGE OF PROBATE  Date Of Issuance  08/14/2020	

NOTE: This letter is not valid without the official seal of the Clerk of Superior Court.

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